

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ALYSSA WILSON and JOHN WILSON, on behalf of themselves and all others similarly situated,

Plaintiffs,

V.

PEOPLECONNECT, INC., a Delaware
Corporation,

Defendant.

Case No. 2:22-CV-00016-MJP

JOINT MOTION AND PROPOSED ORDER TO EXTEND DEADLINES

**NOTE ON MOTION CALENDAR:
March 13, 2024**

Pursuant to Fed. R. Civ. P. 26, Plaintiffs Izzo and Wilson and Defendant PeopleConnect, Inc., by and through their undersigned attorneys, respectfully request the Court to extend the deadline for the Parties to complete arbitration-related discovery to April 26, 2024, and extend the deadline for Defendant to answer or otherwise respond to May 31, 2024.

1. On September 26, 2023, the Court ordered the Parties to complete arbitration-related discovery by December 26, 2023. (Dkt. 33). The Court also set a deadline for Defendant to answer or otherwise respond by January 25, 2024. (*Id.*)

JOINT MOTION AND ORDER TO EXTEND
DEADLINES - 1
No. 2:22-cv-00016-MJP

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1 2. On November 7, 2023, the Court granted the Parties' joint motion to extend the
 2 deadline to complete arbitration-related discovery by February 26, 2024, and for Defendant to
 3 answer or otherwise respond by March 27, 2024. (Dkt. 35).

4 3. On February 22, 2024, the Parties filed a Joint Motion and Proposed Order to
 5 Extend Deadlines. (Dkt 38). Prior to the filing of this motion, Defendant's 30(b)(6) deposition and
 6 Plaintiff Izzo's deposition were taken. Defendant, however, has been unable to take the deposition
 7 of Plaintiff Wilson or Plaintiffs' counsel, as detailed below, despite both depositions having been
 8 timely noticed.

9 4. On February 26, 2024, the Court denied the Parties' Joint Motion and Proposed
 10 Order to Extend Deadlines without prejudice. (Dkt. 39). The Court indicated that the Parties'
 11 motion lacked sufficient detail regarding Plaintiff Wilson's medical condition and its impact on
 12 the scheduling of his deposition, as well as the delay in completing the depositions of Plaintiffs'
 13 counsel. (*Id.*).

14 5. Plaintiff Wilson was scheduled to be deposed on Tuesday, February 6 in Columbus,
 15 Ohio.

16 6. On the afternoon of Friday, February 2, 2024, Plaintiff Wilson's counsel informed
 17 Defendant's counsel that, earlier in the day, Plaintiff Wilson's doctor had identified a serious
 18 health issue that required further consultation and potential treatment. *See Declaration of Samuel*
 19 *J. Strauss, ¶5.* As a result, Plaintiff Wilson had various medical appointments scheduled the
 20 following week, including on February 6, to discuss his diagnosis with his medical team. *Id.*
 21 Should the Court require additional details about Mr. Wilson's health issue and medical
 22 appointments, Plaintiffs' counsel will provide that for *in camera* review given the sensitive nature
 23 of the information. *Id.*

1 7. Although Defendant's counsel was prepared to extend their trip to Columbus to
 2 take Mr. Wilson's deposition on February 7, 2024, on February 6, 2024, while the parties were in
 3 Columbus, Ohio, his counsel informed Defendant's counsel that he was not able to be deposed at
 4 all that week. Strauss Decl., ¶¶ 6-8.

5 8. On February 28, 2024, the Parties conferred regarding discovery in this case.
 6 Defendant's counsel asked for Mr. Wilson's availability to sit for a deposition in the month of
 7 March and also dates for counsels' depositions. On March 4, 2024, Plaintiffs' counsel informed
 8 Defendant's counsel that Plaintiff Wilson and his counsel were not available under the week of
 9 April 3-5, 2024, at the earliest. The parties have agreed to take Plaintiff Wilson's deposition on
 10 April 3, 2024.

11 9. Regarding the production of documents by and depositions of Plaintiffs' counsel,
 12 the Parties agree that those subpoenas should be held in abeyance pending completion of Mr.
 13 Wilson's deposition. By way of background, on January 25, 2024, Defendant served subpoenas
 14 for production of documents and for deposition on two of Plaintiffs' counsel. Defendant served
 15 those subpoenas based on the Ninth Circuit's holding in *Knapke v. PeopleConnect, Inc.*, that
 16 PeopleConnect is entitled to discovery on the "contours of" and "limits of" Plaintiffs' counsel's
 17 authority to act on Plaintiffs' behalf and that attorney-client privilege may be waived if the client
 18 "simultaneously den[ies] an agency relationship regarding the arbitration agreement" while
 19 seeking to shield "communications that would bear directly on that issue." 38 F.4th 824, 834 (9th
 20 Cir. 2022). Defendant also served those subpoenas based on this Court's order in *Boshears*, where
 21 this Court ordered counsel in that case to produce an email chain that plaintiff claimed was
 22 privileged based upon the Ninth Circuit's decision in *Knapke*. *Boshears v. PeopleConnect*, No.
 23 C21-1222, Dkt. 79 at 3 (Dec. 18, 2023).

1 10. Plaintiffs have objected to the subpoenas for production of documents based
 2 primarily on claims of attorney-client privilege and, during subsequent meetings regarding the
 3 subpoenas, have indicated that they also object to the deposition of their attorneys on the same
 4 basis. They have informed Defendant they intend to move to quash the subpoenas.
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7 11. Defendant believes it cannot determine whether it will need to depose Plaintiffs'
 8 counsel and, to the extent it does, the specifics of the questions until after Plaintiff Wilson has been
 9 deposed. Indeed, it is possible Plaintiff Wilson has sufficient knowledge of his attorneys' activity
 10 on Classmates.com and related issues that third-party discovery from his counsel may prove to be
 11 unnecessary. For example, in *Boshears v. PeopleConnect, Inc.* (No. 2:21-cv-01222), Defendant
 12 concluded that Plaintiff Boshears' testimony was sufficiently comprehensive to obviate the need
 13 for any additional discovery from his attorneys.
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16 12. Based on that experience, the Parties agreed as part of their meet and confer efforts
 17 to hold the third-party subpoenas in abeyance to allow Defendant to appropriately define the scope
 18 of its third-party discovery efforts. This also would avoid having the Parties prematurely present
 19 and adjudicate a motion to quash to the Court.
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22 13. Fed. R. Civ. P. 26 provides the Court with the discretion to set the schedule for
 23 discovery.
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26 14. The Parties thus jointly request that this Court extend the deadlines in its existing
 27 scheduling order such that the deadline for the Parties to complete arbitration-related discovery
 28 would be extended to April 26, 2024, and the deadline for Defendant to answer or otherwise
 29 respond would be extended to May 31, 2024. That would allow the deposition of Plaintiff Wilson
 30 to go forward on Wednesday, April 3, 2024, negotiate the scope of the subpoenas directed at
 31 Plaintiffs' counsel, to the extent those negotiations are not successful present a submission
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1 pursuant to Local Rule 37, and take any depositions of Plaintiffs' counsel during the week of April
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3 22, 2024.

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5 **WHEREFORE**, Plaintiffs and Defendant respectfully request the Court to extend the
6 deadline for the Parties to complete arbitration-related discovery to April 26, 2024, and the
7 deadline for Defendant to answer or otherwise respond to May 31, 2024.
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11 DATED this 13th day of March, 2024.
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14 PEOPLECONNECT, INC.

15 /s/ Michael Rosenberger

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Attorneys for Plaintiffs

1 IT IS SO ORDERED.
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3 DATED: March 14, 2024
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Marsha J. Pechman
United States Senior District Judge